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James Park, and William Zerella

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

STEPHEN LOPES, Individually and On Behalf
of All Others Similarly Situated,

Plaintiff,

v.

FITBIT, INC., JAMES PARK, and
WILLIAM ZERELLA,

Defendants.

Case No. 3:18-cv-06665-JST

**STIPULATION AND ~~PROPOSED~~
ORDER EXTENDING TIME FOR
DEFENDANTS TO RESPOND TO
COMPLAINT AND CONTINUING
CASE MANAGEMENT
CONFERENCE AND ASSOCIATED
DEADLINES**

Judge: The Honorable Jon S. Tigar

Date Action Filed: November 1, 2018

STIPULATION

WHEREAS, this action is a proposed class action alleging violations of the federal securities laws against Fitbit, Inc. (“Fitbit” or the “Company”), James Park, and William Zerella (collectively, “Defendants”);

WHEREAS, this action is subject to the requirements of the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4, Pub. L. No. 104-67, 109 Stat. 737 (1995) (the “Reform Act”), which sets forth specialized procedures for the administration of securities class actions;

WHEREAS, the Reform Act provides for the appointment of a lead plaintiff to act on behalf of the purported class, and further provides that the appointment of lead plaintiff shall not

be made until after a decision on a motion to consolidate (if any) is rendered (15 U.S.C. § 78u-4(a)(3)(B)(ii));

WHEREAS, the approval of lead counsel will follow the Court’s decision on the Lead Plaintiff Motion(s);

WHEREAS, thereafter, the parties expect the Court to set a schedule for the filing of an amended or consolidated complaint by Lead Plaintiff;

WHEREAS, Defendants anticipate filing motion(s) to dismiss in response to Lead Plaintiff’s complaint and that the parties will submit a briefing schedule to the Court in connection with any such motion(s);

WHEREAS, because the special procedures specified in the Reform Act contemplate (i) the consolidation of similar actions, if any; (ii) appointment of Lead Plaintiff; and (iii) the filing of a single consolidated complaint by Lead Plaintiff, requiring defendants to respond to the existing complaint in the above-referenced action would result in the needless expenditure of private and judicial resources;

WHEREAS, pursuant to the Reform Act, unless otherwise ordered by the Court, discovery in this action is stayed during the pendency of any motion to dismiss (15 U.S.C. § 78u-4(b)(3)(B));

WHEREAS, on November 2, 2018, this Court issued an Initial Case Management Scheduling Order (Dkt. No. 5) in the above-captioned action, setting the following deadlines:

1. January 9, 2019 for the parties to comply with certain requirements under the Federal Rules of Civil Procedure and the Northern District of California Civil Local Rules (“Local Rules” or “Civil L.R.”) and Alternative Dispute Resolution (“ADR”) Local Rules regarding initial disclosures, early settlement, ADR process selection, and discovery planning;
2. January 23, 2019 for the parties to file a Rule 26(f) Report, complete initial disclosures or state objections in the Rule 26(f) Report, and file a Joint Case Management Statement; and
3. January 30, 2019 at 2:00 p.m. for an Initial Case Management Conference; and

1 WHEREAS, counsel for the parties in the above-captioned action respectfully submit that
2 because the pleadings are not yet set, and because discovery is stayed pending any motion(s) to
3 dismiss, good cause exists to vacate the existing January 30, 2019 Initial Case Management
4 Conference and associated deadlines until after such time as the Court has the opportunity to rule
5 on the appointment of Lead Plaintiff and its counsel, as well as any motion(s) to dismiss;

6 **IT IS ACCORDINGLY STIPULATED**, pursuant to Civil L.R. 7-12, by and between
7 the undersigned counsel for the parties, that:

- 8 1. Pursuant to Civil L.R. 6-1(a), the defendants' obligation to answer, move or
9 otherwise respond to the complaint is extended until after the appointment of a
10 Lead Plaintiff and lead counsel, at which time the parties shall meet and confer and
11 submit to the Court a mutually agreeable schedule for the filing of a consolidated
12 or amended complaint and Defendants' responses thereto;
- 13 2. Pursuant to Civil L.R. 16-2, the Initial Case Management Conference scheduled
14 for January 30, 2019 is vacated, along with any associated deadlines under the
15 Federal Rules of Civil Procedure and Civil Local Rules, to be reset for a date that
16 is 30 days after the Court rules on Defendants' anticipated motion(s) to dismiss
17 Lead Plaintiff's complaint, or such other date as the Court shall determine to be
18 appropriate; and
- 19 3. All Associated ADR Program deadlines likewise be deferred.

20 Respectfully submitted,

21 Dated: December 6, 2018

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Attorneys for Defendants Fitbit, Inc., James Park,
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1 Dated: December 6, 2018

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Attorneys for Plaintiff Stephen Lopes

12 Pursuant to Civil L.R. 5-1(i)(3), all signatories concur in filing this stipulation.

13 Dated: December 6, 2018

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Attorneys for Defendants Fitbit, Inc., James Park,
and William Zerella

21 ***

22 ~~PROPOSED~~ ORDER

23 PURSUANT TO STIPULATION, IT IS SO ORDERED.

24 Dated: December 10, 2018

25 
26 The Honorable Jon S. Edgar
27 United States District Court Judge
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